

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

HERBERT CHARLES GARRION,)	
)	
Petitioner,)	
)	
-vs-)	Case No. CIV-09-240-F
)	
WARDEN GREG WILLIAMS,)	
)	
Respondent.)	


ORDER

On June 23, 2009, United States Magistrate Judge Robert E. Bacharach issued a Report and Recommendation, wherein he recommended denial of petitioner's requests for an evidentiary hearing, appointment of counsel and issuance of a writ of habeas corpus. Magistrate Judge Bacharach advised petitioner of his right to file an objection to the Report and Recommendation by July 13, 2009, and that failure to timely object to the Report and Recommendation would foreclose appellate review of the suggested rulings.

To date, petitioner has not objected to the Report and Recommendation. The court's docket reflects that the Report and Recommendation was returned undeliverable on June 26, 2009. LCvR 5.4(a) requires *pro se* litigants, such as petitioner, to notify the court of any change of address by filing a change of address form. The rule also provides that papers sent by the court will be deemed delivered if sent to the last known address given to the court. The Report and Recommendation was sent to petitioner's last known address. Because the Report and Recommendation is deemed delivered and petitioner has failed to object to the Report and Recommendation within the time prescribed, the court accepts, adopts and affirms the Report and Recommendation in its entirety.

Accordingly, the Report and Recommendation issued by United States Magistrate Judge Robert E. Bacharach on June 23, 2009 (doc. no. 17) is **ACCEPTED, ADOPTED** and **AFFIRMED**. Petitioner's requests for evidentiary hearing and appointment of counsel (doc. no. 16) are **DENIED**. Petitioner's Petition Under 28 U.S.C. § 2254 for Writ of Habeas Corpus by a Person in State Custody (doc. no. 1) is also **DENIED**.

DATED July 14, 2009.



STEPHEN P. FRIOT
UNITED STATES DISTRICT JUDGE